

1 Edward J. Maney, Trustee
2 P.O. Box 10434
3 Phoenix, Arizona 85064
4 Telephone (602) 277-3776
5 eim@maney13trustee.com

6
7 IN THE UNITED STATES BANKRUPTCY COURT
8 FOR THE DISTRICT OF ARIZONA
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11 In re:) CHAPTER 13 PROCEEDINGS
12)
13 THOMAS BRADLEY WALKER,) CASE NO. 10-15495-PHX-RTB
14 JACQUELINE JAY WALKER,)
15) TRUSTEE'S EVALUATION AND
16) RECOMMENDATION(S) REPORT WITH
17) NOTICE OF POTENTIAL DISMISSAL IF
18) CONDITIONS ARE NOT SATISFIED
19)
20) RE: CHAPTER 13 PLAN
21)
22) (Debtor(s))
23)
24)
25)
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27)
28)

13 Edward J. Maney, Trustee, has analyzed the Debtor(s) Chapter 13 Plan and supporting
14 documents and submits the following evaluation and recommendation(s):
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General requirements:

- a. Due to the possibility of errors on the claims docket, it is the attorney's responsibility to review all proofs of claim filed with the Court and resolve any discrepancies between the claims and the Plan prior to submitting any proposed Order Confirming Plan to the Trustee.
- b. Requests by the Trustee for documents and information are not superseded by the filing of an amended plan or motion for moratorium.
- c. The Trustee will object to any reduction in the Plan duration or payout in a proposed Order Confirming Plan unless an amended or modified plan is filed and noticed out.
- d. The Trustee requires that any proposed Order Confirming Plan state: "The Plan and this Order shall not constitute an informal proof of claim for any creditor."
- e. The Trustee requires that any proposed Order Confirming Plan state: "Debtor is instructed to remit all payments on or before the stated due date each month. Debtor is advised that when payments are remitted late, additional interest may accrue on secured debts, which may result in a funding shortfall at the end of the Plan term. Any funding shortfall must be cured before the Case can be discharged. This requirement is effective regardless of Plan payments suspensions, waivers or moratoriums, and must be included in any Plan Confirmation Orders."
- f. At the time of confirmation, the Trustee will require the Debtors to certify that they are current on all required tax filings and any domestic support orders.

4 g. At the time of confirmation, the debtor(s) are required to certify, via language in the Order
5 Confirming, that they are current on all payments that have come due on any Domestic Support
Orders since the filing of their case and that they are current on all required tax return
filings [pursuant to 11 U.S.C. §1308].

8 **Specific Recommendations:**

11 1. The Trustee objects to the section of the Plan (F)(1) in which debtor(s) counsel indicates they
12 will not represent the debtor on Motions to Dismiss, Motions for Relief from the Automatic Stay
and Adversary Proceedings for the flat fee already stated. The Trustee believes this action
should be covered under the flat fee agreement.

13 2. Based on prior performance, the Trustee conditionally objects to the fees requested by counsel
14 for the debtor(s). The Trustee will withdraw the conditional objection upon confirmation of the
15 debtor(s) plan with the following exceptions. If the debtor(s) attorney fails to file all the required
16 statements and schedules within the time set by the Code and any extensions granted by the
17 Court, the Trustee will request the Court approve a \$750 reduction in attorney fees requested by
18 counsel. The Trustee will request a further \$750 reduction in attorney fees if counsel for the
19 debtor(s) fail to timely respond the Trustee Recommendation or submit a stipulated order
confirming case within the time set by the Trustee. The Trustee will have the conditional
objection set for hearing if counsel for the debtor(s) fails to agree to the fee reductions. The
conditional objection will not delay confirmation of debtor(s) case. The Trustee will hold funds for
counsel until the Court rules on the Trustee's objection. All other monies will be disbursed in due
course.

20 3. IRS' proof of claim dated June 11, 2010 indicated Debtor has not filed FICA 3-2007 thru 6-2010
21 tax returns and unfiled FUTA tax returns for 2007, 2008, 2009 and 2010 . The Trustee requires
22 Debtor to immediately prepare and file all unfiled tax returns. **Failure to file said returns or the
required Affidavit within 30 days from the date of this Trustee's Recommendation and
providing a stamped copy of said returns may result in the Trustee lodging an Order
automatically dismissing Debtor's case.**

24 4. Plan payments are currently delinquent \$2,455 with a payment of \$2,455 coming due August 19,
25 2010.

4 In summary, Plan can be confirmed subject to the condition(s) noted above, adequate funding,
5 and timely filed Stipulated Order Confirming, and Court approval. General unsecured creditors
6 (including secured creditors with unsecured deficiency balances) will be paid through the Trustee
7 approximately \$87,821 or an estimated 42% of related debts, subject to timely filed and allowed
8 claims. Chapter 7 reconciliation requirement will be met given debtors' scheduled zero equity in non-
exempt property at petition date. **You are hereby advised that the Trustee may lodge an Order of
Dismissal should Debtor fail to resolve item(s) #3, #4 above and submit a Stipulated Order
Confirming to the Trustee for review and signature or request a hearing within 30 days from
the date of the mailing of this Trustee's Recommendation.**

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10 Dated: [see electronic signature]
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14 Edward J. Maney, Trustee
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16 Copies of the forgoing
17 mailed on [see electronic signature],
18 to the following:
19
20 Thomas Walker
21 Jacqueline Walker
22 17803 W. Dreyfus St.
23 Surprise, AZ 85388
24 Debtors
25
26
27
28 Joseph W. Charles, Esq.
P.O. Box 1737
Glendale, Arizona 85311
Debtors' counsel
By: _____
Trustee's Clerk